

11-15-07 CMS Response To GETAC Air Medical Committee Questions

Subject: Clarification of rules regarding helipad access to Lifeguard status helicopters.

This letter is to request clarification regarding the ability of hospitals to refuse inbound Lifeguard helicopters to land at public or prior permission required (PPR) helipads/heliports/helistops. It has been reported that there have been, and still are, patient access delays to hospitals by Lifeguard status helicopters.

Definitions:

Lifeguard status: An Air Traffic Control status which is requested and assigned to missions of an urgent medical nature and to be utilized only for the portion of the flight requiring expeditious handling.

PPR: Prior Permission Required to land

EMTALA: Emergency Medical Treatment and Active Labor Act

CMS: Centers for Medicare and Medicaid Services

Questions for clarification:

1. What state and federal laws and/or regulations are applicable to the problem stated above?

EMTALA requires Medicare-certified hospitals to provide a medical screening examination and stabilizing treatment, if necessary, to individuals requesting emergency medical treatment.

2. Can the receiving hospital deny a Lifeguard helicopter access to their helipads/heliports/helistops based on a requested amount of personal liability, property damage and/or hull damage insurance carried by the air medical provider, above and beyond the FAA requirements?

Helipad operations and helicopter liability requirements are outside the scope of EMTALA. While EMTALA can require that a hospital accept an appropriate transfer, that does not extend to the authority to compel a hospital to accept the landing of a helicopter on their private helipad. However, the physician certifying that the benefits of transfer outweigh the risks may need to consider the additional time required in transfer if the helicopter in which the patient is riding is unable to land at the designated hospital's helipad. Further, CMS will review complaints about landing permission denials to ensure they are being applied consistently and in a non-discriminatory manner.

3. What rights do PPR certificate holders have in regards to refusing Lifeguard status helicopters access to their helipads/heliports/helistops? Does the answer depend upon whether or not the hospital receives state or federal funding?

Helipad use and permissions required for landing are outside the scope of EMTALA.

4. What rights do owners of public helipads/heliports/helistops have in regards to refusing Lifeguard status helicopters access to their helipads/heliports/helistops? Does the answer depend upon whether or not the hospital receives state or federal funding?

Helipad use and permissions required for landing are outside the scope of EMTALA.

5. What role would EMTALA or CMS rules play in refusing immediate access to a medical facility by a Lifeguard helicopter?

The hospital may be required to accept an appropriate transfer under EMTALA. However, that requirement does not extend to the ability to compel the hospital to accept helicopters on their helipad. However, the physician certifying that the benefits of transfer outweigh the risks may need to consider the additional time required in transfer if the helicopter in which the patient is riding is unable to land at the designated hospital's helipad. Further, CMS will review complaints about landing permission denials to ensure they are being applied consistently and in a non-discriminatory manner.

6. We would like a definition of “reasonable access” to a hospital. Does a remote landing area, local airport or distant helipads/heliports/helistops, count as “reasonable access” when there is an existing helipads/heliports/helistops were timely access that has less delay to definitive, life saving, care is available?

“Reasonable access” is not a regulatory term with regard to EMTALA. If transfer is facilitated by an offsite landing with ground transport to the hospital, the EMTALA obligations have been met. However, the hospital may have risk management concerns (outside the scope of EMTALA) that may come into play with such a practice. . In addition, the physician certifying that the benefits of transfer outweigh the risks may need to consider the additional time required in transfer if the helicopter in which the patient is riding is unable to land at the designated hospital’s helipad.

7. Does being within 250 feet of a hospital, specifically in the air, trigger EMTALA guidelines regarding hospital requirements to provide the EMTALA medical screening exam?

The 250 yard requirement does not extend to the air above a hospital. However, a patient will be considered to have presented to the hospital once the helicopter lands on the helipad.

8. What other EMTALA considerations may apply?

A hospital may not condition acceptance of an appropriate transfer on the use of their ambulance or transport service.

9. What role can DSHS and THA play in licensing a facility, medical or trauma, based on open helipads/heliports/helistops access to Lifeguard status helicopters?